

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)	
)	
v.)	I.D. No. 9911016961
)	
DARREL PAGE)	
Defendant.)	

SENTENCING DECISION

Stephen M. Walther, Esquire and Valerie A. Farnan, Esquire, Deputy Attorneys General, Wilmington, Delaware, Attorneys for the State.

James E. Liguori, Esquire, Dover, Delaware and Joseph F. Lawless, Esquire, Newtown Square, Pennsylvania, Attorneys for Defendant.

ABLEMAN, JUDGE
February 24, 2006

On June 12, 2003, a Superior Court jury convicted the Defendant, Darrel Page ("Page"), of three counts of First Degree Murder, one count of Attempted Murder First Degree, five counts of Possession of a Firearm During the Commission of a Felony, one count of Robbery Second Degree, one count of Conspiracy in the First Degree, one count of Conspiracy Second Degree, and one count of Endangering the Welfare of a Child. Following a penalty hearing, the jury recommended the death penalty by a vote of eight to four on each of the three First Degree Murder charges. This is the Court's sentencing decision following a careful, conscientious and considered weighing and review of the aggravating factors and mitigating circumstances of this case, giving appropriate consideration to the jury's sentencing recommendation as required by statute.

I. The Nature and Circumstance of the Crimes

The facts of this case are grisly. Defendant Darrel Page was a member of a violent drug gang and plied his trade by selling crack cocaine and marijuana on the streets of Wilmington. Cedric Reinford ("Cedric") was a drug kingpin who arranged large shipments of narcotics from New York City, and then divided them among his lieutenants for retail sale. One of these lieutenants was seventeen-year-old Michael Jones ("Jones"), who was Page's friend, a fellow drug-dealer, and a co-conspirator in this case. Jones and Page's territory in Cedric's drug

empire was the “West Side” of Wilmington, specifically the corners of Seventh and Jefferson and Fifth and Washington Streets, with headquarters in the home of Page’s girlfriend, Kim Still. Still allowed Page to store drugs and weapons in her house so that, if the police stopped him or Jones, the amount of drugs in their possession would not warrant trafficking charges. To make matters worse, Still’s rent was partially paid by welfare benefits and the residence was occupied by her four young children. Still’s behavior is perhaps mitigated by the fact that Page abused her, had been convicted of domestic violence offenses in which she was the victim, and had frequently threatened to murder her if she crossed him.

In early 1999, the police arrested Page for trafficking cocaine. Cedric, protecting his men, fronted Page over \$60,000.00 to post bond and pay for counsel to file, argue, and ultimately win, a suppression motion. This largesse was not without strings, however. Cedric expected Page to work off his debt. Page therefore spent the next nine months selling drugs for Cedric without receiving any of the profits.

By the summer of 1999, Page had grown weary of this predicament and began to formulate a plan to escape it. Page settled on robbing Cedric of a large drug payment and then murdering him to cover his tracks. Page imagined that the police would assume Cedric was

murdered by another gang, or in a drug deal gone wrong, and that he would thus escape suspicion. He discussed this plan with Still numerous times throughout the summer.

This plan had one fatal flaw, however. Page was afraid of Cedric and could not muster the courage to murder him. He told Still that he “felt like a punk” because the whole neighborhood knew of his plan, and also knew that he did not have the guts to follow through with it. Incapable of pulling the trigger, Page turned instead to the idea of enlisting another person to aid him in this carefully premeditated murder scheme.

The person Page turned to was his friend, Michael Jones. Jones had already proven an exceptional capacity for violence, as he was on the run from authorities in Hartford, Connecticut, where he had been indicted for the murder of Michael Patterson a few months earlier. Jones had apparently been robbed by members of another gang in his home city of Hartford, and went cruising through that gang’s territory seeking revenge. It is unclear why Jones settled on Patterson, but it is clear that Jones is the individual who was (and still is) wanted for unloading a machine gun clip into Patterson’s body while standing on a busy, well-lit street corner, in the presence of numerous witnesses. Jones was aware

through his mother that the police sought to arrest him for that crime, and he therefore decided to relocate to Wilmington.

During the evening hours of November 20, 1999, Jones, Page, and Cedric were cruising around Wilmington in Cedric's car, with Jones in the backseat. Sometime that night, Jones executed Cedric by shooting him three times in the back of the head. Page and Jones then doused the car with gasoline with Cedric's body still inside, and set fire to the car in an obvious attempt to destroy evidence.

From there, Page and Jones proceeded to Cedric's house in order to retrieve the drug money from a safe that Page had previously observed. Page and Jones knew that Cedric did not live alone in the house, and that his fiancée, Maneeka Plant, and her two sons, six-week-old Nadif and Jakira, age eleven, also resided there. Also staying in the home at the time was Cedric's youngest brother, Muhammed. By all accounts, Muhammed was the "good boy" of the family. He was not involved in the drug trade, had left home and graduated from college, and was only briefly staying with his brother while he was interviewing for a job with a local bank.

Page "sweet-talked" Muhammed into letting him in the house, then drew a pistol and ordered him to let Jones in as well. Page handed the

pistol to Jones, who forced Muhammed through the house as they searched for Cedric's drug money. They finally alighted upon an upstairs bedroom in which Maneeka was sleeping with her six-week-old baby. They awoke Maneeka, demanding to know where Cedric hid his cash. Maneeka began to panic, begging "don't kill my baby, please don't kill my baby." Muhammed climbed into the bed to help Maneeka shield the infant from Jones. As Page searched the room for money, Jones warned Maneeka that her pleas were making him nervous. To show her that he meant business, Jones then shot her in the foot. This gesture only served to make Maneeka more hysterical, so Jones ruthlessly shot her twice in the head, thus ending her life. Jones then turned the gun on Muhammed, shooting him exactly between the eyes and leaving him for dead.

Miraculously, Muhammed survived and, from his hospital bed with his one remaining eye, identified Jones and Page to the police. Page was well known because of his drug dealing, and the police immediately surrounded Kim Still's house. Unbeknownst to them, however, Jones and Page had already fled to Philadelphia in a borrowed car. Earlier that morning, just before the police arrived, Page had phoned Still and directed her to take the train to Philadelphia to retrieve the car for them. Still complied. While there, she received several calls on her cell phone from family members, advising her that the police were at her door and

were extremely anxious to have her return home to be questioned about the murders. The culprits thus knew they were suspected, and had Still drop them off at a Philadelphia Mall. As they left the car, Still saw Jones carrying Cedric's bag of drug money, and heard Page remark, "you're the man."

Page and Jones went their separate ways after the murders. After a ten-month manhunt that included an "America's Most Wanted" episode, Page was ultimately tracked down in Atlanta, Georgia. A year later, on September 11, 2001, the police captured Jones in North Carolina.

II. Procedural Background

Because Page's defense was that Jones forced him at gunpoint to commit the crimes, trial of the co-defendant was severed and the two were tried separately. On June 12, 2003, a Superior Court jury unanimously found Page guilty of three counts of capital murder, as well as a plethora of related charges. The same jury participated in a penalty phase in which the aggravating and mitigating circumstances of Page's life and crimes were explored. Following a penalty hearing that spanned two days, June 13, 2003 and June 16, 2003, the jury recommended the death penalty by a vote of eight to four on all three first degree murder convictions. The Court delayed sentencing Page until Jones could be

tried, so that, in the event both were convicted, the Court would have the full range of information and the sentences could be proportionate.

On January 27, 2005, a Superior Court jury unanimously convicted Michael Jones of three counts of capital murder. On February 17, 2005, the same jury recommended the death penalty by a vote of eleven to one for two of the capital murder charges, and by a vote of ten to two for the third capital murder charge.

Before either man could be sentenced, the United States Supreme Court issued an opinion in *Roper v. Simmons*.¹ In a five-four decision, the Supreme Court held that executing criminals for murders they commit before their eighteenth birthday is cruel and unusual punishment under the Eighth Amendment of the United States Constitution. *Simmons* effectively abolishes the juvenile death penalty in the United States. Because Jones was seventeen years of age at the time of these murders, the Court was legally prohibited from following the jury's recommendation in his case.

On September 16, 2005, Michael Jones was sentenced by this Court to three life sentences on each of the first degree murder

¹543 U.S. 551 (2005).

convictions, as well as a combined total of 44 years on all of the other felony charges of which he was found guilty.

Because the decision in *Roper v. Simmons*, precluded this Court from sentencing Jones to death, the Court was relieved of the responsibility of weighing all relevant evidence in aggravation or mitigation that bears upon the particular circumstances or details of the commission of the offense and the character and propensities of the offender. In essence, the *Roper* case made this judge's sentencing decision a simple one, as the Court had no choice but to sentence defendant Jones to imprisonment for the remainder of his natural life without benefit of probation, parole, or any other reduction irrespective of the jury's nearly unanimous recommendation of death. As will be discussed more fully hereafter, the effect of this change in law on the case at bar weighs heavily in the Court's decision herein in imposing sentence upon Darrel Page.

III. Discussion

Delaware's death penalty statute, 11 *Del.C.* §4209, first requires the jury to find, unanimously and beyond a reasonable doubt, the existence of at least one statutory aggravating factor in order for the defendant to be death eligible.

In this case, the Court directed the jury that, by its verdicts in the guilt phase, it had already found, beyond a reasonable doubt, the existence of two statutory factors. One factor was that Page's conduct resulted in the deaths of two people.² The second was that the murder was committed while the Defendant was engaged in the crime of Attempted Robbery First Degree.³ Since these two factors were inherent in the convictions, found by the jury beyond a reasonable doubt, the jury was then to consider all evidence presented in aggravation and mitigation that bears upon the particular circumstances or details of the commission of the offense and character and propensities of the offender, to weigh these factors, and to provide a recommendation to the Court for punishment.

As required by statute, the State and the defense properly gave notice, itemizing the non-statutory aggravating and mitigating circumstances upon which they intended to rely in the penalty hearing.

In addition to the two statutory factors the jury found beyond a reasonable doubt, the prosecution indicated that it would also present evidence of the following non-statutory aggravating factors:

- 1) Page used and sold drugs as a juvenile in New York;

²11 Del.C. §4209(e)(1)(k).

³*Id.*

- 2) Page led an irresponsible, dangerous lifestyle as a drug-dealer/abuser, domestic violence perpetrator, and murderer;
- 3) Page used and sold drugs in Delaware;
- 4) Page employed others in his drug business;
- 5) Page sold and stored drugs in a house occupied by young children;
- 6) Page transported drugs into Delaware from other states;
- 7) Page threatened to Kim Still;
- 8) Page violently abused Kim Still;
- 9) Page has a previous conviction for abusing Kim Still;
- 10) Page unlawfully fled to avoid prosecution;
- 11) Page used aliases to avoid apprehension;
- 12) Page participated in an unprovoked, cold-blooded murder of a defenseless person;
- 13) The murders substantially impacted the victims' families;
- 14) The victims were parents of young children; and
- 15) Muhammed Reinford suffered physical and emotional pain from being shot in the face during the murder spree.

The defense presented evidence at the penalty hearing in an effort to support only the following mitigating circumstances:

- 1) Page was 21 years old when he committed the murders;
- 2) Page provided some monetary support to his mother and daughter while in prison;
- 3) Executing Page would impact his family;
- 4) Life imprisonment is a substantial punishment;

- 5) Page will not be a danger to society or other prisoners if sentenced to life;
- 6) The victims were not innocent because they participated in and benefited from the criminal activities associated with drug sales.

A. Non-Statutory Aggravating Factors

I begin my analysis by noting that all of the aggravating factors, except the impact on the victim's families, were part of the core facts of the case and, as such, led the jury to find unanimously that Page was guilty beyond a reasonable doubt. The final aggravating factor – victim impact – was amply proven during the penalty phase.

The Court concludes that each of the foregoing factors was established by the State through plain, clear, and convincing evidence.

- 1) Page's Dangerous Lifestyle as a Drug Dealer and Abuser and His Activities Associated with his Drug Distribution (Nos. 1-6 above)
-

Page had opportunities to do something constructive and lawful with his life but instead chose the unlawful road to quick gains. Rather than maintain regular full-time employment for fair wages, and use his ambition to work his way up a respectable career ladder, he was lured by the “get rich quick” underworld life of drug dealing where the money was good, the hours flexible, and where he could aspire to a lifestyle of glitz and luxury. Best of all, he had no one to whom he had to report, he could work only when he felt like it, and only as much as he wished.

Indeed, his life was without structure or responsibility, and measured only by the extent of his desire for ill-gotten gains. In short, he could be lazy and free, and except for the legal risks that he plainly overlooked, he was paid handsomely.

Page began this irresponsible, dangerous lifestyle as a drug dealer before he was even an adult. He used and sold drugs in New York – his hometown – before moving to Delaware to ply his trade. As a young teen, Page embarked upon life armed with weapons and peddling misery to hundreds of unlucky addicted souls. For whatever reason, not the least of which was the fact that the competition was not as intense in Delaware as in New York, Page transferred his “business” to this state. Working for Cedric out of his girlfriend’s home was an arrangement that enabled Page to be closer to the kingpin of the operation. Page became the “big shot,” who was able to accompany his wealthy boss to New York two or three times a week, returning each time with \$35,000.00 worth of marijuana, cocaine, or crack cocaine. The drugs were stored in Kim Still’s home where Page, along with Still’s four children, lived. Page’s “lieutenants,” whom he hired to work for him, were young men and women who sold the drugs directly on the street, with Page getting his share of the take.

Considering the overwhelming, and at times horrifying, evidence of Page's involvement in this major drug enterprise, the Court is satisfied that these activities, motivated solely by greed, were sufficiently proven as aggravating factors in both phases of this trial.

2) Page's Violent Behavior Towards Still (Nos. 7-9)

Drug dealing was not the only unlawful behavior in which Page engaged. According to his girlfriend, Kim Still, in whose home he stored the drugs, Page was abusive on several occasions and threatened her with death in the event she ever revealed his dark secrets. As a consequence, after the victims were murdered, it took many hours of interrogation by the police before Still was willing to disclose the truth about Page. In her videotaped interview, which had to be played twice to the jury, Still's fear of Page and of his threats to retaliate by killing her, were nearly palpable. When Still finally realized that she could no longer continue to lie to the police, she described Page's murderous plans, his actions before and after the murders, and his violent behavior towards her with great emotional outpouring and in a manner that amply justified her initial reluctance to tell the truth. During the interview Still eventually disclosed that Page had told her that "if you ever talk to the police, I'll send someone to kill you. If you ever cross me, I'll kill you." In addition to these threats, Still had been violently abused by Page in the

past. On one such occasion, Page was convicted of a criminal offense for his abuse of Still.

At trial, Still's best friend, Lynn Raikes, recounted the times she would observe bruises around Still's neck. On one occasion, Still was sporting a broken finger. These were all tell-tale signs of Page's abusive relationship with Still.

During Page's murder trial, Still appeared to the Court to continue to be fearful of Page, despite the fact that she knew there was a strong likelihood that Page would be spending the remainder of his life in prison, at the very least. By the time of Jones' trial, more than eighteen months later, Still appeared far more composed, far less fearful, and, most importantly, far more remorseful in accepting the bad choices she had previously made. In short, by Jones' trial, she was resigned to her decision to have nothing to do with Page or his friends forever. Still's testimony at Jones' trial was a far cry from the terrified and shell-shocked image she portrayed on the videotape of her police interview shortly after the murders. Page's ruthless impact upon Still was apparent to the Court and his abuse of her cannot be overlooked in this sentencing decision.

3) Page's Efforts to Avoid Prosecution (Nos. 10-11)

Within a day after his murder spree, Page arranged to have Still leave Wilmington via early morning train, meet him and Jones in Philadelphia, assist them in their efforts to flee, and return the borrowed car back to Wilmington. Both co-defendants fled to parts unknown, with Page ultimately landing in Georgia, where he went into hiding and used aliases to avoid apprehension and prosecution.

During this ten-month period while Page was in hiding, he had no contact with his child or the child's mother. Yet, his counsel presented his monetary support of his five-year-old daughter while he was imprisoned for this crime as a mitigating circumstance.

4) Victim Impact (Nos. 12-15)

The final non-statutory aggravating factors, all of which relate to the effect of these murders upon the victims, was amply proven during the penalty phase. Indeed, there was considerable evidence regarding the impact of Maneeka's death upon her loved ones, especially her two young children. Maneeka was only twenty-four-years-old when she was murdered. She was the only granddaughter of Hazel Plant, the only daughter of Al Plant, and the mother of two young children.

Page was aware that Maneeka was the mother of two young children, one of whom she cradled in her arms as Jones shot her to death. Page's callous decision to perpetrate these murders orphaned Maneeka's two sons. Page also knew that Cedric was the father of the younger boy, and that his murderous plan would, in a single blow, snuff out all parental support, love, and nurturing for the infant. Nadif now lives with his widowed grandmother who, though still mentally acute and physically well, is in her late seventies and cannot reasonably be expected to care for him until he reaches adulthood.

By some lucky twist of fate, Jakira, Maneeka's older son, was not home to see his mother murdered. Yet, the only "concern" Page showed for these innocent children was when, during the robbery, he repeatedly asked whether Jakira was in the house. His inquiries, however, were not out of compassion for the young boy. His motive in learning of the child's whereabouts was so that Jakira would not be a potential eyewitness.

Jakira now lives with his father, but his life will never be the same. His grandmother, Hazel Plant, recounted the changes that she and other family members have noticed. The child says that "things are no longer fun anymore, not like when Mommy was around." He talks about his

late mother frequently and he has lost his interest in sports because his mother is no longer alive to take him to games.

The impact of Page's cold-blooded plan upon Muhammed Reinford cannot be underestimated. Muhammed will forever be reminded of that fateful night at 1636 Coleman Street. His suffering was portrayed for the jury to see as his videotaped interview with the police took place in his hospital room. The extent of his injuries was dramatic insofar as he was hooked up to innumerable tubes and apparatus, and was, at times, too weak to be coherent.

Muhammed's life will never be the same. He narrowly escaped death – literally by a few centimeters – but will never again be able to see out of his right eye, and will live the rest of his life with an optical prosthesis. As if his own permanent disability and physical pain were not enough, Muhammed lost his brother the same night that he lost his eye, causing overwhelming emotional pain as well.

* * *

In summary, the Court considers the aggravating circumstances of this crime to be of enormous weight. Page chose the life of a violent thug, brutally abused and controlled the woman he used to support his drug activities, poisoned the streets of our community with drugs from

New York, and became so enamored with his easy-money lifestyle that he would go to any length to keep it, including hatching a plan to murder a friend and anyone else who stood in the way, even an innocent mother.

B. Mitigating Circumstances

The defense's attempt to soften the overwhelming aggravating factors by proof of its list of mitigating circumstances was far less persuasive. The Court finds, however, that the Defendant presented reliable, albeit weak, evidence to establish the following mitigating circumstances.

1) Page's Young Age

It is true, of course, that Page was only twenty-one years of age when he orchestrated and carried out his murderous plan. It is also true that, unlike Jones, Page was not a juvenile at the time of the murders. He was indeed quite young, and only four years older than Jones. Though relatively young, Page was well past the age to which the law attributes diminished criminal responsibility. Moreover, one does not have to reach the age of majority to know that murder is extremely immoral, and that the consequences of getting caught are dire. Although Jones' age at the time of the offense now renders him legally insulated from the death penalty, even Jones, at seventeen years of age, had to

have been keenly aware of the wrongfulness of his acts.⁴ The age difference between these two co-defendants is not the only basis to distinguish them, however.

Unlike Jones, Page was the product of a good family, is well-educated, polished, articulate, and handsome. When he did not succeed in one school, his parents had him transferred to another. Although the number of school placements was presented as a mitigating factor, or rationalization for Page's academic failures, the fact of the matter is that his parents, and particularly his mother, cared enough about his future to try to enroll him in a school where he would have greater success.

In short, while Page's age does not legally preclude him from the ultimate punishment of death, it is a factor of little weight, except for the fact that it factors heavily in this Court's proportionality analysis, *infra*.

2) Page's Provision of Monetary Support

The defense presented evidence that Page has provided some monetary support to his mother and daughter while he has been in prison. Although this fact was not disputed at trial, it is hardly a powerful mitigator.

⁴The effect of *Roper v. Simmons* on the sentencing decision in this case will be more fully discussed under the "Proportionality" section of this Opinion.

It was obvious from the evidence at trial that Page never worked a real job in his life, and made his money selling drugs right up to the time he became a fugitive for these murders. Since there was no evidence of any other employment, any money he has given to his family is almost certainly the profits from his illegal activities, including the robbery he committed as part of this murderous plan.

Moreover, since being incarcerated, it is hardly remarkable that Page would give money to his relatives. His consumption in prison is strictly limited to the few items he is allowed to have in his cell. The fact that Page provides the remaining small funds to his family only shows that he has made a rational economic decision. It demonstrates little about his humanity. This mitigating evidence therefore is of minimal weight.

3) Impact on Page's Family

The impact that an execution would have on Page's family is, indeed, a strong mitigating factor. Page has family that cared for him enough to attend every day of this lengthy trial, and to plead for his life during the penalty phase. His mother courageously sat through the evidence of every excruciating detail of these heinous crimes, an effort that must have been extraordinarily painful and overwhelmingly difficult.

Ms. Stamp did nothing to deserve the heartbreak that her son's activities have thrust upon her.

Nor does Page's young daughter deserve to be deprived of the love and support of a father. In essence, she is as innocent and blameless as Maneeka's young sons. Yet, she too will never know her father.

In the final analysis, it was Hazel Plant's testimony that provided the most powerful impact upon the Court in its analysis under this factor. With an almost incomprehensible show of compassion, Ms. Plant testified under oath – at the penalty phase of Jones' trial – that she saw nothing to be gained by imposing the death penalty upon Michael Jones because "his mother would then have to suffer as I have done." While Ms. Plant did not expressly so state at Page's trial, presumably that same courageous and merciful spirit would apply to the innocent members of Page's family.

4) Life Imprisonment is a Substantial Punishment

The fact that life imprisonment is a substantial punishment weighs only minimally in the Court's analysis. To be sure, a life sentence without benefit of any reduction is severe. In fact, some would argue that it is a far worse fate than death. While spending one's entire life in prison is nearly as bad as it gets, ruthlessly murdering two parents and

maiming a third individual is far worse. The reason Delaware maintains the death penalty is that some murders, like those committed in this case, are so horrifying that even a sentence of life imprisonment is deemed by the General Assembly to be too lenient a punishment. Moreover, this mitigating factor applies in every capital murder case, and does little to substantiate why Page, in particular, should be spared the death sentence that the majority of the jurors recommended.

5) Page Will Not Be a Danger to Society or Other Prisoners

The defense presented evidence that Page has had an almost clean disciplinary record while incarcerated, at least up to the date of the penalty hearing.

Indeed, since his incarceration, Page has fared well in the highly structured prison environment. Page's disciplinary record is not without write-ups, but they are all for minor infractions. He has been disciplined for talking in the cafeteria (which is apparently not permitted in his wing). He also has a number of offenses for not getting out of bed on time or not being in his cell. There were no reports of aggressive or violent behavior, nor of any physical contact with other inmates or guards.

Dr. Dougherty, a forensic psychologist, who testified on Page's behalf provided some insight into Page's future prospects if given a life sentence. In Dr. Dougherty's opinion, based upon his review of the data, his interviews with Page and Page's personality profile, he believes that Page responds better in a highly structured environment where the rules are clearly defined.

Even assuming that Page still has no serious disciplinary infractions since his imprisonment, he is sufficiently savvy to appreciate the significance of his in-prison behavior upon the jury's decision. Simply stated, this mitigating factor would apply to every defendant facing capital punishment who is wise enough not to commit crimes while awaiting trial. In essence, while this factor is indeed a mitigator in Page's case, it is not necessarily illustrative of his character as an individual.

6) The Victims' Lack of Innocence and Illegal Activities

The defense presented evidence at trial that Cedric and Maneeka, because they were involved in drug dealing, to some degree assumed the risk of death. Therefore, the argument goes, the death penalty is not appropriate for Page because of the victims' diminished worth. The defense views this circumstance as a relatively strong mitigating factor.

Cedric Reinford was a stereotypical drug lord. While there was some evidence that he intended to surrender his lawless lifestyle by using Maneeka's familial political connections to obtain an honest job, the proof of this plan at trial was vague and belied by Cedric's actions. Cedric imported hundreds of thousands of dollars worth of drugs monthly into Wilmington, spent money on luxuries like a Lexus car and large diamond ring, and engaged in harrowing shoot-outs to defend his lucrative drug business. With the enormous amount of cash to which he had access, it seems unlikely that Cedric would have willingly given up the high stakes for a real job with honest wages and honest tax withholding. Cedric's ongoing business did present a continuous danger to Delaware and its citizens, but Page's claim that he did the State a favor by murdering Cedric is scant rationalization.

To the extent that Page relies upon Cedric's flawed character to vindicate his own actions, this argument holds no weight when applied to Maneeka Plant. It is true that Maneeka knew how Cedric made his living, and that she risked tarnishing her family's good name and political connections to help launder his drug money. There was some mention at trial, through a girlfriend, that Maneeka intended to forsake the criminal life, leave Cedric, and move to Philadelphia to attend university, but again, the fact that she had Cedric's baby only six weeks before the murders, would suggest that her intentions may not have been

concrete. Moreover, unlike the situation between Page and Kim Still, there was no evidence that Cedric abused or intimidated Maneeka. Hence, it appears that she was with him because she wanted to be. Maneeka had to know that the relationship carried substantial risk.

While Maneeka may not have been an entirely innocent victim, Page was fully aware that she had young children. Even assuming, *arguendo*, that Maneeka's awareness and limited participation in Cedric's activities made her somehow more deserving of the risk,⁵ her children were innocent victims of Page's actions. Nadif and Jakira were not involved in the drug trade, did not ask to be born to parents who were, and did not deserve to live their lives as orphans so that Page could have a few thousand dollars of undeserved profit. While the victims that Page murdered were not unblemished, the people who will suffer the consequences of those murders are. The mitigating factor of victim culpability is therefore substantially outweighed by the impact on the victims' family.

7) Remorse

Page spoke in allocution. While he did acknowledge the wrongfulness of his drug dealing, he did not directly accept responsibility for the shootings. He did, however, apologize for "the situation" and expressed his sympathy for the victims by stating as follows:

⁵This argument is hardly tenable as money laundering is nowhere in this country punishable by death.

Good afternoon. I had some words to say to the family. I had some things I wanted to say. Well, basically, about that catastrophe that happened three-and-a-half years ago, you know, I have and I'll always think about that situation. That's what I'm saying. It's like – and my heart – and, my heart and my sympathy goes to the family because they took serious losses. They have took serious losses. And I understand that they desire and they deserve retribution for what happened, because – because of my drug dealing and – my dealing drugs, my drugs and my drug dealing, two good people were murdered and a man was wounded. And I apologize for that situation.

And I just hope that one day, they can find – accept my apology, you know, one day they can accept my apology, and I pray for them, pray for their family and kids. And I just want to apologize for that whole catastrophe that happened.

And I also want to apologize to my family, putting them through – everybody, not just – everybody, putting them through the things that I put them through. I mean – due to the circumstances, and I can't be the son, the husband, the father that I need to be. And I just hope that they can accept my apology for the situation.

And all I can say is God bless everybody. Thank you. Thank you.

While not the most sincere and genuine outpouring of remorse, the Court does find that Defendant accepted responsibility for his involvement in these crimes and does seem to be sensitive to the pain and heartache that his actions have caused to the victims' families and to his own family.

C. The Weighing Process

All of the foregoing evidence was considered by the Court and the jury and, at the conclusion of the penalty hearing, the jury was asked the following question: “Does the jury find by a preponderance, after weighing all relevant evidence in aggravation or mitigation which bears upon the particular circumstances or details of the commission of the offense and character and propensities of the offender, that the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist?” The jury was then instructed that if the aggravators outweigh the mitigators by a preponderance of the evidence, a sentence of death is appropriate, and vice versa. The jury was thus advised that an affirmative response was a vote to recommend the death penalty. Its vote was 8 to 4 in favor of the death penalty for each of the three murder convictions. That recommendation is to be given “appropriate” weight by the Court.⁶ In the final analysis, it is the Court’s exclusive decision as to whether the death penalty or life imprisonment is imposed on this defendant.

It is difficult to weigh all of the evidence presented in the penalty phase without reaching the same conclusion that the majority of the members of the jury reached. That is, the non-statutory aggravating factors do outweigh the mitigating circumstances when viewed as a

⁶11 Del.C. §4209(d)(1); *State v. Starling*, 882 A.2d 747, 759 (Del. 2005).

whole with respect to this defendant. Indeed, the proven mitigating circumstances pale in comparison to the nature and extent of these crimes. Were this the end of the Court's inquiry, the decision would be less difficult. While the jury's recommendation was not overwhelmingly in favor of the death penalty, it could certainly be considered by the Court in connection with the aggravators and mitigators as amply supporting a decision to impose the death penalty. This case is unique, however, because the jurors in the Page case lacked one highly significant piece of information in reaching their sentencing recommendation that radically alters the disposition. That is the fact that this Court was legally prohibited from imposing the ultimate punishment upon Page's co-defendant, Michael Jones, the only one of the two who was cold-blooded, ruthless, and heartless enough to fire the deadly shots. This landmark Constitutional decision that freed Jones from any possibility of a death sentence gives a whole new perspective to this sentencing decision, as will be discussed more fully below.

D. Proportionality

It is with the question of proportionality of sentencing and the treatment of the co-defendant relative to this defendant that this Court has had the most difficulty. In this case, perhaps more than any other, this issue weighs most heavily and, in this Court's judgment, is entirely dispositive.

To understand the Court's proportionality analysis, it is essential to focus upon the respective roles played by the co-defendants in this case, and the fate of Jones, following his trial, conviction, and sentencing, as a result of the intervening landmark decision of the United States Supreme Court in *Roper v. Simmons*.⁷

Early in this litigation, the Court granted a Motion to Sever the co-defendants' trials because Page's defense was that Jones forced him at gunpoint to commit the crimes. As already indicated, a Superior Court jury unanimously found Page guilty of three counts of Murder and recommended the death penalty by a vote of eight to four on each. The Court purposely delayed sentencing Page until Jones could be tried so that the Court would have the benefit of hearing and considering all of the evidence from both trials. The Court also wanted to delay sentencing so that, in the event both defendants were convicted, the sentences would not be disparate.

On January 27, 2005, a Superior Court jury unanimously convicted Jones of three counts of Capital Murder, one count of Attempted Murder, and a plethora of related charges. On February 17, 2005, the same jury recommended the death penalty, by a vote of eleven-

⁷543 U.S. 551.

to-one, for two of the capital murder charges: the First Degree Murder and Felony Murder of Maneeka Plant. The jury recommended death by a vote of ten-to-two for the third charge, the First Degree Murder of Cedric Reinford.

As has already been detailed, Page was the brains behind these murders, and Jones was the muscle. Page was too squeamish to shoot Cedric, Maneeka and Muhammed so he recruited Jones to do the shooting for him. The juries seemed to have found Jones to be the more reprehensible of the pair, and voted more strongly to execute him than Page.

Before either man could be sentenced the United States Supreme Court issued an opinion in *Roper v. Simmons*. In a five-to-four decision, the Supreme Court held that executing criminals for murders they commit before their eighteenth birthday is cruel and unusual punishment under the Eighth Amendment to the Federal Constitution. *Simmons* effectively abolishes the juvenile death penalty in the United States. Given Jones' age at the time of these murders, he was sentenced on September 16, 2005 to life imprisonment for these murders without the benefit of parole.

At first blush, it seems that the Court could independently justify the death penalty for Page, notwithstanding Jones' escape from execution by virtue of his age. Upon further reflection, however, I reject that view. In the first place, the United States Supreme Court could not possibly have intended *Simmons* to create a system whereby murderers could recruit children to execute their villainous schemes so as to receive a lesser sentence in the name of proportionality. That analysis is too grim and far-fetched even for the most heartless and cruel of murderers. The concept of rewarding an individual for selecting a child, rather than an adult, to do his killing for him is not a policy consideration that was ever contemplated by *Simmons*, nor should that case ever be viewed as an invitation for such criminals to recruit youngsters to pull the trigger. There probably are some individuals sufficiently depraved to think that way, but it would be an extremely rare and unusual circumstance. To be sure, Page did recruit Jones to do the dirty work for him, but he did not do so on the basis of Jones' age.

Then too, it could be argued that Page is by far the more blameworthy in that these crimes would never have occurred had he not ruthlessly and carefully planned and fomented them. Jones, then, could be viewed merely as the instrument of Page's overwhelming arrogance and greed. However, the jury in the Jones case did not consider Jones' young age to be a reason to spare him from death even though it was

Page who was the mastermind and moving force behind the murders, and even though it was Page who showed substantial planning, thought, and purpose. To the contrary, eleven of twelve jurors who carefully weighed the evidence decided that the crime of gunning down a mother trying to shield her newborn son, just after murdering that infant's father, as she begged "please don't kill my baby," warranted the ultimate punishment, even for a seventeen-year-old. The fact that this was the second murder of Jones' killing spree, that he maimed a third person while trying to slaughter him, that he was wanted in Connecticut for a fourth murder, and that Jones served essentially as a hired assassin in this case made this jury almost unanimously see Jones as appropriate for the death penalty.

Comparing the personal histories of the two conspirators could also more than justify a harsher penalty for Page than Jones. Jones is an uneducated, fatherless thug, who grew up in a Hartford ghetto with little, if any, parental or family support to keep him from the dark drug and weapon infested street life that he preferred to anything else. Page, on the other hand, enjoyed a more privileged childhood in a middle-class, caring family. In fact, although it was briefly suggested in the penalty phase of this trial that Page had a troubled upbringing because he was repeatedly enrolled in new schools, the truth is that Page's parents cared enough about him and his academic progress that they transferred him

from school to school (some even private facilities), in search of a new environment where he might achieve greater academic success. In fact, although of average intelligence, Page attended six different schools in nine years, all in the New York area. He was held back in both second and seventh grades, had problems both learning and attending school, and ultimately dropped out of school in the tenth grade. While he probably had attention deficit hyperactivity disorder or another undiagnosed learning disability, he did not lack a caring family who used their best efforts to prevent him from gravitating toward the wrong crowd. Thus, unlike Jones, who was, at least partially, driven by circumstance, Page knowingly and willingly rejected opportunities to reform his behavior. While his middle class parents at times may have been in such denial that they overlooked the obvious signs of his criminal activity, it cannot be said that they abandoned their responsibilities as parents.

As the dominant force, instigator, and mastermind of the murder of Cedric Reinfeld, Darrel Page could be viewed as having more, rather than less, culpability for the murders. It was Page who enlisted and directed Jones, as his agent, to commit this crime. It was Page who pledged to Jones his share of the stolen money and it was Page who stood by while Jones murdered not only Cedric, but also Maneeka, and maimed Muhammed for life.

On the other hand, the juries seem to have found Jones to be the more reprehensible of the two, as is demonstrated by the number of votes recommending death. Darrel Page had enough warmth of heart to be incapable of pulling the trigger, thus necessitating involving Jones in the scheme. Jones was the one who had no moral hesitation whatsoever before gunning down a mother who was sheltering her six-week-old infant, and cold-heartedly shooting both Cedric and Muhammed. However, because *Simmons* holds that juveniles can never be executed for their crimes, Page has been left to face death alone. Jones was only seventeen at the time of the murders, while Page was twenty-two. That five-year gap, when viewed in the light of the roles each played in this violent killing spree, is simply not a sufficient basis to justify imposing the death penalty on Page and not on Jones. In the final analysis, this Court cannot in good conscience allow Page to face the death penalty when Jones, whose deeds and character are as heinous as any juvenile the Court could envision, is spared this fate by what could be deemed a technicality.

IV. Conclusion

The jury found the existence of two statutory aggravating factors by their verdicts in the guilty phase. The same jury determined that the aggravating circumstances outweighed the mitigating circumstances and

recommended the death penalty by a vote of 8 to 4. The law provides that this Court give appropriate weight to the jury's recommendation, and I have done so herein.

In its independent consideration of the evidence and in its weighing analysis, the Court finds by a preponderance of the evidence that the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist. Notwithstanding this finding, however, in light of the recent abolition of the juvenile death penalty, this Court finds that it would be inequitable and unjust to impose the death penalty upon Page, when it is constitutionally prohibited from imposing the same sentence upon the co-defendant.

Accordingly, the Court imposes the following sentence for the First Degree Murder convictions:

As to IN00-11-1608 Murder in the First Degree: Defendant is placed in the custody of the Department of Corrections for the remainder of his natural life without the benefit of probation or parole or any other reduction.

As to IN01-01-2172, Murder in the First Degree: Defendant is placed in the custody of the Department of Corrections for the remainder

of his natural life without the benefit of probation or parole or any other reduction.

As to IN01-01-2179, Murder in the First Degree: Defendant is placed in the custody of the Department of Corrections for the remainder of his natural life without the benefit of probation or parole or any other reduction.

The above sentences are effective on November 3, 2000, the date of the Defendant's arrest for these offenses.

IT IS SO ORDERED.

PEGGY L. ABLEMAN, JUDGE